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COVID-19 Guidance: U.S. Environmental Protection Agency/Massachusetts Department of Environmental Protection Addressed Site Fieldwork/Remediation

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Environmental agencies have begun considering the impact of COVID-19 on various investigation, site fieldwork and remediation activities.

Current examples include guidance issued by the United States Environmental Protection Agency (“EPA”) and Massachusetts Department of Environmental Protection (“MDEP”).

The necessity for considering COVID-19 in this context is driven by the fact that various federal and state environmental programs mandate short or long term response to releases of chemicals, petroleum or other hazardous materials/substances. Examples of such programs might include:

- Superfund/Comprehensive Environmental Response Compensation Liability Act (including state analogs)
- Resource Conservation and Recovery Act Subtitle C Corrective Action (including state delegated programs)
- Resource Conservation and Recovery Act Subtitle I Petroleum Underground Storage Tank programs (including state delegated programs)
- Toxic Substance Control Act PCB Regulations
- Oil Pollution Act

As a result, at any given time across the United States there are likely thousands of activities taking place in response to these programs’ mandates such as:

- Groundwater and/or soil sampling
- Groundwater treatment
- Soil excavation
- Underground storage tank removal
- Groundwater treatment
- Containment activities (ground and surface water)

EPA has addressed this issue through its issuance of an April 10th memorandum titled:

Interim Guidance on Site Field Work Decisions Due to Impacts of COVID-19 (“Memorandum”)

The *Memorandum* is transmitted from Assistant Administrator, Office of Land and Emergency Management, Peter C. Wright and Assistant Administrator, Office of Enforcement and Compliance Assurance, Susan Parker Bodine to the EPA Regional Administrators.

The *Memorandum* acknowledges that response field activities are taking place pursuant to the various federal and state statutory and regulatory authorities. It notes that:

... In respect of the challenges posed by the COVID-19 situation, EPA continues to make decisions about continuing on-site activities on a case-by-case basis consistent with the following priorities:

- Protecting the health and safety of the public, as well as maintaining the health and safety of EPA staff and cleanup partners, is the Agency's highest priority. Integral to the protection of health and safety is the adherence to any federal, state, tribal, or local health declarations and restrictions, to the extent possible.
- Maintaining EPA's ability to prevent and respond to environmental emergencies, or in any situation necessary to protect public health and welfare and the environment, is also a critical priority for the Agency.

The five-page *Memorandum* addresses:

- General Guidance for Response Field Work Decisions
- Factors to Consider for Site Field Work Decisions
- Effects on Non-Field Site Work
- Next Steps When Pausing Site Work

The different states, of course, also supervise various field activities and are, therefore, likely considering these issues.

The MDEP issued an April 7th memorandum titled:

Guidance on Continuity of MassDEP Waste Site Cleanup Operations and MCP Compliance during COVID-19 State of Emergency ("Mass Memorandum")

MDEP states it is providing:

... information on the status of MassDEP's Bureau of Waste Site Cleanup (BWSC) operations and expectations related to Massachusetts Contingency Plan (MCP, 310 CMR 40.0000) requirements and site work during the COVID-19 State of Emergency in the Commonwealth declared by Governor Baker on March 10, 2020.

Issues addressed in the *Mass Memorandum* include:

- Status of BWSC operations
- Release Notifications
- Immediate Response Actions (IRAs)
- Other MCP Response Action Deadlines
- Active Remedial Systems
- Active Exposure Pathway Mitigation Measures (AEPMMs)
- Securing disposal sites where remedial actions and/or construction activities were underway
- Questions

A copy of the EPA *Memorandum* can be downloaded [here](#) and the *Mass Memorandum* [here](#).